

SENATE BILL 222

By Kelsey

AN ACT to amend Tennessee Code Annotated, Section 29-39-104, relative to punitive damage awards based on vicarious liability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-39-104, is amended by adding the following as a new subsection (g):

(g)

(1) Notwithstanding subdivision (a)(9), punitive damages may be awarded against a defendant based on vicarious liability for the acts or omissions of an agent or employee only if the finder of fact determines by special verdict based on clear and convincing evidence that:

(A) The act or omission was committed by a person employed in a management capacity while that person was acting within the scope of employment;

(B) The defendant was reckless in hiring, retaining, supervising or training the agent or employee and that recklessness was the proximate cause of the act or omission that caused the loss or injury; or

(C) The defendant authorized, ratified or approved the act or omission with knowledge or conscious disregard that the act or omission may result in the loss or injury.

(2) Nothing in this subdivision shall be construed to expand or increase the scope of vicarious liability or punitive damages liability under Tennessee law.

(3) For purposes of this subsection, "a person employed in a management capacity" means an employee with authority to set policy and

exercise control, discretion, and independent judgment over a significant scope of the employer's business.

SECTION 2. This act shall take effect July 1, 2013, and shall apply to all actions accruing on or after that date, the public welfare requiring it.